

## **REMARKS**

Claims 21 and 27 have been amended. Claims 1-59 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Claim Objections:**

The Examiner objected to claims 21-32 for certain informalities. Claims 21 and 27 have been amended as suggested by the Examiner. Accordingly, withdrawal of the objection to claim 21-32 is respectfully requested.

### **Section 112, Second Paragraph, Rejection:**

The Examiner rejected claims 1-20 and 33-59 under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants respectfully traverse this rejection for at least the following reasons.

The Examiner asserts that claims 1, 12, 33, 36, 41, 48 and 52 recite the broad recitation “a computer program process” and also recite “defining ...” which is a narrower statement of a range/limitation. The Examiner asserts that these claims are thus indefinite for reciting a broad range or limitation together with a narrow range or limitation in the same claim. For support, the Examiner cites M.P.E.P. § 2173.05(c); *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989); *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). The Examiner’s reliance on this authority is clearly misplaced. The section of the M.P.E.P. and case law cited by the Examiner only apply to situations where the language of the claims creates some doubt as to whether the narrower limitation is a required limitation or merely an example within the broader range or limitation. For example, M.P.E.P. § 2173.05(c) gives as an example a claim that recites “a temperature of between 45 and 78 degrees Celsius, *preferably* between 50 and 60 degrees Celsius.” The other example mentioned in M.P.E.P. §

2173.05(c) is a claim that recites “a predetermined quantity, *for example*, the maximum capacity. Similarly, *Ex parte Wu*, *Ex parte Steigewald*, *Ex parte Hall* and *Ex parte Hasche* all involve situations where a claim uses terms like “optionally”, “such as” or “for example” to introduce the narrower range or limitation. In contrast, the “defining ...” limitation recited in claims 1, 12, 41 and 52 is not introduced by a term like “preferably”, “optionally”, “such as” or “for example”. The “a computer program process” and “defining ...” limitations are both recited as clear definite limitations in the claims. There is no ambiguity in how these limitations are recited in Applicants’ claims. Applicants also remind the Examiner that “breadth of a claim is not to be equated with indefiniteness.” *See, e.g.*, M.P.E.P. § 2173.04; *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). Withdrawal of the rejection is respectfully requested.

## CONCLUSION

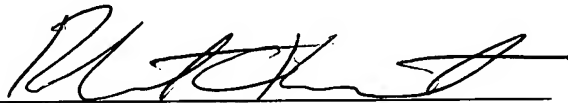
Applicants submit the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-96801/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,



Robert C. Kowert  
Reg. No. 39,255  
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.  
P.O. Box 398  
Austin, TX 78767-0398  
Phone: (512) 853-8850

Date: October 7, 2005